



Office of the Attorney General

State of Texas

September 4, 1992

DAN MORALES

ATTORNEY GENERAL

Ms. Melissa Winblood
Assistant City Attorney
Office of the City Attorney
The City of El Paso
2 Civic Center Plaza
El Paso, Texas 79999

OR92-534

Dear Ms. Winblood:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16888.

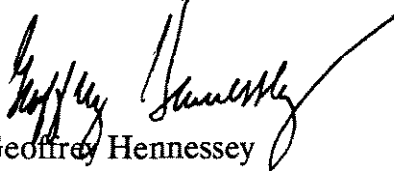
You received a request for the personnel file of Freddy Moreno, a former employee of the El Paso Police Department. You claim that the requested information is excepted from required public disclosure by Open Records Act sections 3(a)(1), 3(a)(3), and 3(a)(11).

Section 3(a)(3) excepts from disclosure information relating to pending or reasonably anticipated litigation. Open Records Decision No. 551 (1990). Where an attorney's letter demands damages and threatens to file suit, litigation is reasonably anticipated. *Id*; see also Open Records Decision No. 452 (1986) (whether litigation is reasonably anticipated must be determined on a case-by-case basis).

You advise that a damages claim has been filed against the city and that you reasonably anticipate litigation. We agree. We have examined the information submitted to us for review, and we accept your determination that the requested information relates to the anticipated litigation. Accordingly, the requested information may be withheld in its entirety from required public disclosure under Open Records Act section 3(a)(3). As we resolve this matter under section 3(a)(3), we need not address the applicability of sections 3(a)(1) and 3(a)(11).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-534.

Yours very truly,



Geoffrey Hennessey
Assistant Attorney General
Opinion Committee

GH/GCK/lmm

Ref.: ID# 16888

cc: Mr. Ronald P. McCluskey
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